

## Message Text

LIMITED OFFICIAL USE

PAGE 01 EC BRU 06553 01 OF 02 182003Z

67

ACTION EUR-12

INFO OCT-01 ISO-00 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00

EB-07 FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00

NSC-05 PA-01 AID-05 CIEP-01 SS-15 STR-04 TAR-01

TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 FEA-01 /093 W

----- 119184

R 181741Z JUL 75

FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC 9328

INFO ALL EC CAPITALS 932

LIMITED OFFICIAL USE SECTION 1 OF 2 EC BRUSSELS 6553

PASS AGRICULTURE

E.O. 11652: N/A

TAGS: EAGR, EEC

SUBJECT: TARIFF CLASSIFICATION OF SOY PROTEINS

REF: (A) FASTO CIRCULAR 296; (B) TOFAS 171 OF 8/7/74 (C)

TOFAS 51 OF 3/13/74 (D) TOFAS 147

1. BEGIN SUMMARY: BASED ON DISCUSSIONS WITH SEVERAL COMMISSION OFFICIALS IN THE CUSTOMS SECTION, IT APPEARS THAT THE COMMISSION IS NOT NOW CONSIDERING A TARIFF EX-OUT FOR SOY PROTEINS UNDER CATEGORY 21.07. HOWEVER, A COMMISSION STUDY, RECOMMENDING SIGNIFICANT CHANGES IN THE TARIFF CLASSIFICATION OF PROTEIN PRODUCTS, WILL BE SUBMITTED IN OCTOBER TO THE COMMON CUSTOMS TARIFF NOMENCLATURE COMMITTEE. THIS STUDY RECOMMENDS CLASSIFYING VEGETABLE PROTEIN CONCENTRATES IN CXT 35.04 (WITH ISOLATES) BUT WOULD LEAVE HYDROLYSATES AND TEXTURED SOY PROTEIN PRODUCTS IN CXT 21.07. BUT IMPLEMENTATION OF THESE PROPOSALS (WHICH, IN ANY CASE, WOULD ONLY PARTIALLY SOLVE U.S. PROBLEMS). IS FAR FROM CERTAIN. THEREFORE, THE MISSION RECOMMENDS THAT WE FORMALLY REQUEST THE ESTABLISHMENT OF A SUB-HEADING FOR VE-

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 EC BRU 06553 01 OF 02 182003Z

GETABLE PROTEIN PRODUCTS UNDER CXT 21.07 WITH AN 8 PERCENT

DUTY--PROVIDING A STRONG CASE CAN BE MADE. END SUMMARY.

2. BACKGROUND: RECOGNIZING THE POTENTIAL FOR EXPANDED TRADE IN SOY PROTEINS, THE UNITED STATES NEGOTIATED A REDUCTION OF THE EC DUTY ON CXT 35.04 (PEPTONES AND OTHER PROTEIN SUBSTANCES AND THEIR DERIVATIVES) TO 8 PERCENT IN THE KENNEDY ROUND. AT THAT TIME, THE COMMUNITY CLASSIFIED SOY PROTEINS WITHIN THAT CATEGORY WITH THE POSSIBLE EXCEPTION OF TEXTURED VEGETABLE PROTEINS. ON APRIL 24, 1970, THE 24TH SESSION OF THE NOMENCLATURE COMMITTEE OF THE CUSTOMS COOPERATION COUNCIL (CCC) APPROVED A REVISION OF THE BTN EXPLANATORY NOTES WHICH RELOCATED SOY PROTEIN CONCENTRATES AND HYDROLYSATES IN BTN CATEGORY 21.07. THE U.S. HAS A 20 PERCENT BINDING ON CXT 21.07FIA.1 (OTHER FOOD PREPARATIONS NOT ELSEWHERE SPECIFIED OR INCLUDED WITH LESS THAN 1.5 PERCENT BY WEIGHT OF MILKFAT, LESS THAN 5 PERCENT SUCROSE, AND LESS THAN 5 PERCENT STARCH), THE CATEGORY IN WHICH THE RECLASSIFIED SOY PROTEINS HAVE BEEN PLACED. EFFORTS TO PERSUADE THE CCC TO RECONSIDER THEIR DECISION ON RECLASSIFICATION HAVE FAILED. ALTHOUGH THE TARIFF TREATMENT APPLIED BY MEMBER STATES TO THESE COMMODITIES IS NOT ENTIRELY CLEAR, IT APPEARS THAT THEY HAVE EITHER EFFECTED THE CHANGE IN CLASSIFICATION DECIDED BY THE CCC OR ARE ABOUT TO DO SO. GRIFFITH LABORATORIES HAS INDICATED THAT BOTH THE NETHERLANDS AND DENMARK CHANGED THE CLASSIFICATION OF SOY PROTEIN CONCENTRATES TO 21.07 IN MID-1974. REF A REQUESTED THAT THE MISSION SOUND OUT THE COMMISSION ON THE POSSIBILITY OF SECURING AN EX-OUT WITHIN CXT 21.07 PROVIDING FOR THE APPLICATION OF AN 8 PERCENT DUTY TO THE ITEMS ORIGINALLY FOUND IN CXT 35.04 (AND NOW SUBJECT TO A 20 PERCENT DUTY).

3. WE DISCUSSED CLASSIFICATION OF SOY PROTEINS WITH EC COMMISSION OFFICIALS OF THE CUSTOMS SECTION ON JUNE 30. WE REVIEWED THE BACKGROUND OF THE CLASSIFICATION PROBLEM AND ASKED ABOUT COMMISSION PLANS TO EX-OUT A CATEGORY FOR SOY PROTEINS UNDER CXT 21.07--WITH AN 8 PERCENT DUTY. REF. B AND C HAD INDICATED THAT THE COMMISSION WAS CONSIDERING SUCH ACTION. THE COMMISSION OFFICIALS SAID THAT NO EX-OUTS FOR EXT 21.07 WERE CURRENTLY BEING CONSIDERED. THEY ADDED, HOWEVER, THAT WHERE ITEMS ARE RECLASSIFIED AS A RESULT OF CCC DECISION, THE COMMUNITY IS OBLIGATED TO TRANSFER THE BOUND DUTY TO THE NEW CLASSIFICATION. LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 EC BRU 06553 01 OF 02 182003Z

FICATION. THE US NEED ONLY PRESENT A FORMAL REQUEST. (THE TRANSFER OF THE BOUND DUTY ON SEMI-CONDUCTORS FROM CXT 85.21E TO 85.21D WAS CITED AS AN EXAMPLE OF THIS PROCESS.)

4. THE OFFICIALS ALSO VERIFIED THAT THE OMISSION OF THE BOUND 8 PERCENT DUTY ON CXT 35.04 IN THE LATEST ENGLISH VERSION OF THE TARIFF SCHEDULE (REG. NO. 2658/74, O.J. L-295 OF NOVEMBER 1, 1974) WAS MERELY A TYPOGRAPHICAL ERROR. THEY PROGRESSED TO

BE UNAWARE OF ANY PROBLEM OF VARYING MEMBER STATE TARIFF  
CLASSIFICATION OF SOY PROTEINS. (AS REPORTED IN REF. C).

5. ON JULY 11, WE CONTACTED SANDRO FORCHERI, A CHEMIST IN THE  
CUSTOMS SECTION, WHO IS CURRENTLY STUDYING PROTEIN CLASSI-  
FICATION PROBLEM. FORCHERI SAID THAT A STUDY RECOMMENDING CER-  
TAIN CHANGES IN THE TARIFF CLASSIFICATION OF PROTEIN WOULD BE  
SUBMITTED AT THE NEXT MEETING OF THE EC COMMON CUSTOMS  
TARIFF NOMENCLATURE COMMITTEE, EXPECTED TO BE HELD IN OCTOBER.  
IF THESE RECOMMENDATIONS ARE APPROVED BY THIS COMMITTEE, WHICH  
IS COMPOSED OF REPRESENTATIVES OF THE MEMBER STATES AND CHAIRED  
BY THE COMMISSION, THEY WILL BE ADOPTED BY THE COMMISSION  
AND WILL, OF COURSE, BE APPLICABLE TO ALL MEMBER STATES.  
HOWEVER, FORCHERI INDICATED THAT NO CHANGES WOULD BE MADE  
WITHOUT THE CONCURRENCE OF THE CCC. (THIS RESERVATION IS SPE-  
CIFIED IN THE STUDY).

6. FORCHERI GAVE US A COPY OF THE COMMISSION STUDY (IN FRENCH  
-- NOT YET AVAILABLE IN ENGLISH) ON A CONFIDENTIAL BASIS  
(COPY AIR-POUCHED) TO KEATON/FAS). THE STUDY COVERS NOT ONLY  
VEGETABLE PROTEIN PRODUCTS BUT ALSO FISH AND ANIMAL DERIVATIVES,  
YEAST PRODUCTS, AND OTHER PROTEIN PRODUCTS. THE CURRENT  
TARIFF TREATMENT OF SOY PROTEIN PRODUCTS, ACCORDING TO THIS  
STUDY, IS AS FOLLOWS:

CXT

--ISOLATES OF VEGETABLE PROTEIN 35.04  
--CONCENTRATES OF VEGETABLE PROTEIN 21.07F  
-- HYDROLYSATES OF PROTEIN 21.07F  
--TEXTURED FLOUR OF SOYA 21.07F(X)

(X) APPARENTLY THERE IS SOME QUESTION ON THIS ITEM SINCE  
THE PHRASE "IN OUR OPINION" QUALIFIES THIS CLASSIFICATION.

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 EC BRU 06553 02 OF 02 181944Z

67

ACTION EUR-12

INFO OCT-01 ISO-00 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00

EB-07 FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00

NSC-05 PA-01 AID-05 CIEP-01 SS-15 STR-04 TAR-01

TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 FEA-01 /093 W

----- 118882

R 181741Z JUL 75  
FM USMISSION EC BRUSSELS  
TO SECSTATE WASHDC 9329  
INFO ALL EC CAPITALS 933

LIMITED OFFICIAL USE SECTION 2 OF 2 EC BRUSSELS 6553

PASS AGRICULTURE

7. THIS STUDY RECOMMENDS THAT CXT 35.04 BE ENLARGED TO INCLUDE VEGETABLE PROTEIN CONCENTRATES (AND ALSO SOLUBLES OF FISH AND MARINE MAMMALS). ISOLATES AND CONCENTRATES ARE DESCRIBED AS HAVING THE SAME INTRINSIC CHARACTER. IN BOTH CASES, THE PROTEINS ARE INTACT AND THERE IS NO DECOMPOSITION. THEY DIFFER ESSENTIALLY BY THEIR PROTEIN CONTENT (NOT LESS THAN 90 PERCENT FOR ISOLATES, NOT LESS THAN 70 PERCENT FOR CONCENTRATES). IN FACT, THERE IS A TYPE OF SOY PROTEIN CONCENTRATE WHICH (APART FROM ITS LOWER PROTEIN CONTENT) POSSESSES ALL THE PROPERTIES OF AN ISOLATE. FINALLY, THERE IS CONSIDERABLE DOUBT AS TO WHETHER CONCENTRATES CAN BE CONSIDERED PREPARATIONS IN THE SENSE INTENDED IN CXT 21.07 (I.E., MIXTURES OF SEVERAL COMPONENTS). THUS, THE STUDY CONCLUDES THESE TWO PRODUCTS SHOULD BE GROUPED TOGETHER.

8. ON THE OTHER HAND, THE STUDY FINDS THAT THE CLASSIFICATION OF HYDROLYSATES OF PROTEINS IN CXT 21.07 IS SATISFACTORY. THE HYDROLYSATES (WHICH CAN BE OF ANIMAL OR VEGETABLE ORIGIN) ARE ESSENTIALLY MIXTURES OF AMINO ACIDS AND SODIUM CHLORIDE. THEY DIFFER FROM THE CONCENTRATES AND ISOLATES IN THAT THEY

LIMITED OFFICIAL USE

PAGE 02 EC BRU 06553 02 OF 02 181944Z

ARE OBTAINED BY THE FRAGMENTATION OF PROTEINS AND THUS CONTAIN A SUBSTANTIAL PROPORTION OF FREE AMINO NITROGEN. THE STUDY ALSO RECOMMENDS THAT PARTIALLY HYDROLYSIZED MATERIALS, WHICH MAY CONTAIN FROM 15 TO 20 PERCENT PROTEIN, BE INCLUDED IN CXT 21.07.

9. THE STUDY ALSO RECOMMENDS THE CLASSIFICATION OF TEXTURED VEGETABLE PROTEINS (T.V.P.) UNDER CXT 21.07. HERE, HOWEVER, THE ALTERNATIVE CLASSIFICATIONS CONSIDERED (AND REJECTED) ARE CXT 19.02 (FLOUR PREPARATIONS) AND 23.04 (OILCAKE). T.V.P. PRODUCTS ARE DESCRIBED AS "FOODS WITH A MODIFIED PROTEIN BASE, OF WHICH THE BASIC MATERIAL HAS UNDERGONE SUCH A PROFOUND TRANSFORMATION THAT THEY NO LONGER POSSESS THEIR ORIGINAL CHARACTER"--I.E., SOYA FLOUR OR MEAL. THUS, AS NON-SPECIFIED FOODSTUFFS THEY ARE CONSIDERED TO FALL UNDER CXT 21.07. THE STUDY ALSO RECOMMENDS THAT A SOY-BASED PRODUCT CALLED "BESPRO"--SIMILAR TO THE TEXTURED PROTEIN PRODUCTS--BE CLASSIFIED UNDER 21.07 INSTEAD OF 19.02 AS PREVIOUSLY DETERMINED BY THE COMMON CUSTOMS TARIFF NOMENCLATURE COMMITTEE. THE CCC HAS NOT YET MADE

A DETERMINATION ON THIS PRODUCT.

10. THE PROPOSALS CONTAINED IN THE COMMISSION'S STUDY WOULD THUS, IF ADOPTED, ELIMINATE U.S. TARIFF PROBLEMS WITH RESPECT TO PROTEIN CONCENTRATES BUT WOULD LEAVE HYDROLYSATES AND TEXTURED VEGETABLE PROTEINS IN CXT 21.07 SUBJECT TO THE SAME TARIFF RATE. FURTHERMORE, ADOPTION OF THESE PROPOSALS IS FAR FROM CERTAIN. FORCHERI DOES NOT EXPECT A DECISION OF THE COMMON CUSTOMS TARIFF NOMENCLATURE COMMITTEE UNTIL FEBRUARY OR MARCH AND, EVEN THEN, CORRESPONDING DECISIONS WOULD HAVE TO BE TAKEN BY THE CCC.

11. THEREFORE, WE SUGGEST THAT THE DEPARTMENT INITIATE A FORMAL REQUEST FOR THE ESTABLISHMENT OF A SPECIAL SUBHEADING UNDER CXT 21.07 FOR SOY PROTEIN PRODUCTS TO BE CHARGED A DUTY OF 8 PERCENT--PROVIDED THAT A STRONG CASE CAN BE MADE. IN VIEW OF THE FLUID SITUATION RE THE CLASSIFICATION OF PROTEIN PRODUCTS, IT IS TACTICALLY ADVISABLE TO MAKE A CLEAR CLAIM TO THE 8 PERCENT DUTY RATE.

12. THE "TRANSFER" OF THE BOUND DUTY WILL PROBABLY BE CONSIDERABLY MORE TIME-CONSUMING AND DIFFICULT THAN COMMENTS BY EC OFFICIALS (IN PARA 3) WOULD SUGGEST. THE SEMI-CONDUCTOR CASE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 EC BRU 06553 02 OF 02 181944Z

TOOK 18 MONTHS TO CONCLUDE. IT WILL BE ESSENTIAL TO ESTABLISH THAT THE REDUCTION OF THE DUTY TO 8 PERCENT IN THE KENNEDY ROUND APPLIED TO SPECIFIED PROTEIN PRODUCTS NOW BEING SUBJECTED TO HIGHER DUTIES. INVOICES WERE USED AS PROOF OF TARIFF CLASSIFICATION IN THE SEMICONDUCTOR CASE. NOTES EXCHANGED IN THE KENNEDY ROUND NEGOTIATIONS OR REFERENCES TO CLASSIFICATION OF THE ITEMS IN QUESTION IN CXT 35.04 IN THE EXPLANATORY TARIFF NOTES PUBLISHED BY THE COMMISSION OR THE CCC COULD ALSO BE USED TO ESTABLISH OUR CASE.

13. THE STRENGTH OF THE US CASE RE EACH OF THE PRODUCTS MENTIONED IN REF. A (CONCENTRATES, HYDROLYSATES, TEXTURED VEGETABLE PROTEIN) SHOULD BE CAREFULLY EXAMINED. AS NOTED, THE COMMISSION STUDY DOES NOT CONSIDER CXT 35.04 AS AN ALTERNATIVE CLASSIFICATION FOR TEXTURED VEGETABLE PROTEINS AND SEEMS TO INDICATE THAT, IN THE PAST, THESE PRODUCTS HAVE BEEN CLASSIFIED UNDER EITHER CXT 19.02 OR 23.04. GREENWALD

LIMITED OFFICIAL USE

NNN



## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** STANDARDS, CUSTOMS DUTIES, TARIFFS, SOYBEANS, FOODS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 18 JUL 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** ShawDG  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1975ECBRU06553  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D750249-0421  
**From:** EC BRUSSELS  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1975/newtext/t19750739/aaaabisy.tel  
**Line Count:** 269  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION EUR  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 5  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 75 FASTO CIRCULAR 296, 75 TOFAS 171, 75 OF 8/7/74  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** ShawDG  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 22 APR 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <22 APR 2003 by ShawDG>; APPROVED <23 DEC 2003 by ShawDG>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
06 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** TARIFF CLASSIFICATION OF SOY PROTEINS  
**TAGS:** EAGR, EEC  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006